IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 8TH JUNE 2007 / 18TH JYAISHTA 1929

Crl.Rev.Pet.No. 815 of 2007B

CRA.376/2005 of ADDL. SESSIONS COURT(ADHOC)FAST TRACK COURT-III, PATHANAMTHITTA

CC.902/2004 of JUDL.MAGISTRATE OF FIRST CLASS COURT-I, PATHANAMTHITTA

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REVN. PETITIONER:

K. MOHAMMED SHERIF, PROPRIETOR,
NKR AND COMPANY, LOOLU COMPLEX
ANAPPARA, PATHANAMTHITTA
HAVING PERMANENT RESIDENCE AT SHEMIR MANZIL,
ANAPARA, PATHANAMTHITTA.

BY ADV. SRI.BECHU KURIAN THOMAS

RESPONDENTS:

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1. K.B. PAPPACHAN,
KIZHAKKEDATHUPUTHEN VEEDU
THUMPAMON, PANDALAM THEKKEKARA VILLAGE
ADOOR TALUK.
2. SATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNKAULAM.

BY ADV. SRI. K.SHAJ
SRI.SAJJU.S
BY PUBLIC PROSECUTOR MR. AMJAD ALI

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 06/06/2007, THE COURT ON 8-6-2007 PASSED THE FOLLOWING:

ORDER ON CRL.M.A.NO. 2353/2007 IN CRL.R.P.NO. 815/2007

DISMISSED.

8-6-2007 SD/-K.R.UDAYABHANU, JUDGE

TRUE COPY

P.S.TO JUDGE

K.R. UDAYABHANU, J.

CRL.R.P.NO.815 of 2007-B

DATED THIS THE 8th JUNE 2007

ORDER

The revision petitioner is the accused in the proceedings initiated under Section 138 of the Negotiable Instruments Act and stands sentenced to undergo simple imprisonment for six months and to pay Rs.1,00,000/-(Rupees one lakh) as compensation under Section 357 (3)Cr.P.C. and in default to undergo simple imprisonment for three months.

2. The contention of the revision petitioner is that statutory notices contemplated under Section 138 of the N.I.Act has not been complied with. Hence, notice was not received and that there was no intimation given.

3. I find that it is the case of the complainant that the accused was running a financial institution and he deposited Rs.1,00,000/-(Rupees one lakh) and Ext.P1 impugned cheque was issued with a date one year after the date of deposit. The cheque when presented got dishonoured. Lawyer notice was sent both in his business address as well as in his residential address and both were returned unclaimed. There is evidence that the business of the accused closed and he was absconding. It is noted by the courts below that the accused has no

case that the addresses in the notice were incorrect. The evidence of DW1, the Municipal Secretary, on the basis of the profession tax register that the accused was not conducting business in the particular address is not helpful as the notice was sent also in his residential address. It is in evidence that due intimation regarding the notice was received in the addressee. In the circumstances, the decision relied on by the revision petitioner, i.e. **Chacko** v. **Kurian, 2006(3) KLT 694** has no relevance. I find no merits in the contention of the revision petitioner. The Crl. revision petition is dismissed in limine.

All the same, considering the plea of the counsel for the revision petitioner, the sentence is modified to imprisonment till the rising of the court and the rest of the sentence is confirmed. Th revision petitioner is granted six months time from today onwards to pay the amount of compensation. He shall appear before the Judicial First Class Magistrate-I, Pathanamthitta on 7-12-2007 to receive sentence.

Sd/-

K.R.UDAYABHANU, JUDGE

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